

**SEDGWICK COUNTY
BOARD OF ZONING APPEALS
MINUTES
AUGUST 28, 2000**

The Sedgwick County Board of Zoning Appeals special meeting held on Monday, August 28, 2000, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 North Main, Wichita, Kansas, beginning at 2:00 p.m.

The following members were in attendance: Chairman, GARY WILEY, GRANT TIDEMANN, JANA MULLEN, AND KATHLEEN GIDEON. The following member was absent: DENNIS GRUENBACHER.

The following Planning Department staff members were in attendance: Secretary, DALE MILLER, Assistant Secretary, LISA VAN DE WATER, and Current Plans Senior Planner, SCOTT KNEBEL present. Recording Secretary, ROSE SIMMERING present.

The following County staff members were in attendance: GLEN WILTSE, Director, Sedgwick County Code Enforcement. MICHELLE DAISE, Assistant County Counselor.

Triplett, Woolf, Garretson, 2959 N. Rock Road, Suite 300, Wichita, KS 67226 c/o Rachel Pirner is representing the County Board of Zoning Appeals.

WILEY: Calls meeting to order. First order of business would be the approval of meeting minutes for the following meetings: July 11, 2000 and July 20, 2000.

TIDEMANN moves WILEY seconds the meeting minutes for July 11, 2000 and July 20, 2000 be approved.

MOTION CARRIES 2-0.

WILEY: Item number two is case number COBZA 1-99. This request is finalizing the settlement agreement on the William J. and Darlene Scott Appeal of Administrative Interpretation of the County Zoning Administrator. Dale do you need to do anything?

MILLER: I think Michelle needs to take action.

DAISE: Yes, Rachel Pirner is actually coming as well and she has a summary sheet to give to the Board. We were talking about this a little bit before the meeting this case has been sometime back this was over a year ago that we dealt with this case. Just to give a little bit of background on it before Rachel gets here. The Scotts' did sue the Board of County Commissioner and the County Board of Zoning Appeals on this matter. As you probably know the Board of Zoning Appeals made a decision that day or shortly thereafter, to uphold Glen's decision on the case involving the Scotts'.

No written findings even though it was announced that there would be written findings were ever actually issued. Because of that the Scotts' basically got tired of messing, and waiting around for that which they would have appealed that to District Court. They were also dealing with county court citations at the same time and there was just a lot going on and basically I think they just got fed-up is what it boiled down to. So that is when they went ahead and sued the County to try and get something figured out as to what was and what was not allowed on their property and that is how we got to this point.

Typically, Boards of the County or the City, are not able to be sued. The Board of Zoning Appeals, is a unique creature in that the courts have held that it can be separately sued. So that is why we are here today, to discuss it with you and find out if you are comfortable with the settlement negotiations that we have been doing and what we have come up with as far as a recommended settlement.

Typically we would go into executive session since we don't have any members of the public here and we can just go ahead and discuss it here. If someone does show up, certainly we would need to go into executive session, because we don't want to waive any privilege we have; because this is a confidential communications between the Board of Zoning Appeals and your legal counsel.

If you don't mind, I would probably be most comfortable waiting until Rachel is here. I have distributed that bullet point sheet that you can look at and have in front of you. (There she is) It will basically go through and tell you where we are at and what we are recommending.

WILTSE: That was auto repair there?

DAISE: Pardon?

WILTSE: To do automotive repair or restoration there?

DAISE: A little bit of everything, that was one of the primary things going on, yes.

PRINER: I am here.

DAISE: Rachel, I was just telling them how we got to this point and just pointed out that since there is nobody here from the public we are not going to need to go into executive session. But if somebody does come in we obviously will want to go into executive session so that we don't waive any privilege.

PRINER: My thought was, looking at the notice issued, we can certainly waive notice but we don't have any public matters up for consideration today. It really is all attorney client privilege following a pre-hearing that these three had to suffer through, and you two got out of for two consecutive days and then the settlement another matter. I mean we are not considering anything that is a pending application. That was my conclusion.

DAISE: Good.

PRINER: My name is Rachel Priner, by the way, and I am being retained by the County on a couple of occasions to handle zoning things, although we know that Michelle is the real Guru. We will be losing her soon, which is a sad occasion.

We have got a copy of the Journal Entry on this first matter for anyone who wants to suffer through it. I will tell you that Glen has reviewed it, Michelle has reviewed it in detail along with myself. This is on a pending lawsuit by the Scotts' against Board of County Commissioners as well as the Board of Zoning Appeals. We have entered into a settlement agreement that I believe is very favorable for all the parties.

DAISE: May I make an announcement quickly?

PRINER: Yes.

DAISE: I am going to ask the recording secretary to turn the tape recorder off since we are considering this confidential communication. I will have her turn that off, not take minutes, and not take notes since this is not a public hearing.

PRINER: Do we need a motion to go into executive session?

DAISE: Might not hurt, let's go ahead and do that just to be on the safe side.

TIDEMANN moves WILEY seconds that we go into executive session.

MOTION CARRIES 4-0.

DAISE: We need, a not to return before, a certain time.

WILEY: What do we need 20 minutes?

PRINER: To get through this?

WILEY: Yes.

PRINER: I think so.

WILEY: We will not return until 2:30 and we can always extend it.

TAPE TURNED OFF